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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814.257	03/21/2001	Nancy D. Hanson	180.00030102	6204

26813 7590 01/13/2003

MUETING, RAASCH & GEBHARDT, P.A.
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MINNEAPOLIS, MN 55458

EXAMINER

LU. FRANK WEI MIN

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 01/13/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/814,257

Applicant(s)

HANSON ET AL.

Examiner

Frank W Lu

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 12-16.

Claim(s) objected to: 39-42, 44, 46-48, and 51.

Claim(s) rejected: 17,43,45 and 49.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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DETAILED ACTION

1. The purposed amendments filed on December 10, 2002 have been fully considered but will not be entered because 1) they raise new issues that would require further consideration and/or search; and (2) they raise the issue of new matter.

The phrase “excluding OXA-1, 10, 11, 14, 16, and 17” in claims 17, 49, and 51 raises new issues that would require further consideration and/or search since a pair of primers specific for nucleic acid characteristic of the OXA family of beta-lactmase enzymes in claims 17, 49, and 51 filed on November 11, 2001 are different from a pair of primers specific for nucleic acid characteristic of the OXA family of beta-lactmase enzymes excluding OXA-1, 10, 11, 14, 16, and 17 in claims 17, 49, and 51 of this purposed amendments filed on December 10, 2002.

The phrase “excluding OXA-1, 10, 11, 14, 16, and 17” in claims 17, 49, and 51 raises the issue of new matter since the specification does not describe a method for identify a beta-lactamase using a pair of primers specific for nucleic acid characteristic of the OXA family of beta-lactmase enzymes excluding OXA-1, 10, 11, 14, 16, and 17 and a diagnostic kit comprising a pair of primers specific for nucleic acid characteristic of the OXA family of beta-lactmase enzymes excluding OXA-1, 10, 11, 14, 16, and 17. Furthermore, applicant did not indicate how Application of John, 55 F.2d 1008, 1019 (1977) is related to claims of this instant application.

2. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94

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(December 28, 1993)(See 37 CAR § 1.6(d)). The CM Fax Center number is either (703) 308-4242 or (703)305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Lu, Ph.D., whose telephone number is (703) 305-1270. The examiner can normally be reached on Monday-Friday from 9 A.M. to 5 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached on (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application should be directed to the Chemical Matrix receptionist whose telephone number is (703) 308-0196.

Frank Lu
January 9, 2002


W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600